

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RUBEN PABLO and BONNIE COURSEY,

No. C 08-03894 SI

Plaintiffs,

**ORDER RE: DISCOVERY REQUEST
[Docket No. 54]**

v.

SERVICEMASTER GLOBAL HOLDINGS,
INC., et al.,

Defendants.

Plaintiffs have filed a discovery request seeking to compel defendants to produce five current employees and one former employee for deposition. Plaintiffs noticed the depositions of these employees, but defendants refused to produce the witnesses pursuant to the deposition notices.

Under Federal Rule of Procedure 45, a party must serve a subpoena to compel a non-party witness to attend and testify at a deposition. Fed. R. Civ. P. 45(a)(2)(B); *Trunk v. City of San Diego*, No. 06-1597, 2007 WL 2701356, at * 3 (S.D. Cal. Sept. 13, 2007). Defendants have stated in their letter brief that none of the employees plaintiffs seek to depose is a director, officer, or managing agent of defendants. Nothing in plaintiffs' letter brief addresses, much less disputes, this assertion. Accordingly, plaintiffs must serve subpoenas in accordance with Rule 45 for each non-party witness they seek to depose. Defendants have stated they are willing to accept service on behalf of the employees plaintiffs wish to depose, and are hereby directed to do so.

Plaintiffs are further ordered to schedule each deposition for a location no more than 100 miles from where the deponent resides or works. Fed. R. Civ. P. 45(c)(3)(A)(ii) (court must quash subpoena that "requires a person who is neither a party nor a party's officer to travel more than 100 miles from

1 where that person resides, is employed, or regularly transacts business in person”); *Zamani v. Carnes*,
2 No. 03-0852, 2008 WL 2127849, at *1 (N.D. Cal. May 19, 2008) (“The Federal Rules of Civil
3 Procedure require that a non-party travel no more than 100 miles from his residence or place of business
4 in responding to a discovery subpoena.”).

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6 **IT IS SO ORDERED.**

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8 Dated: November 4, 2009



SUSAN ILLSTON
United States District Judge